

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, and 3-7 are pending, Claim 1 having been amended to correct informalities and incorporate the subject matter of Claim 2, and Claims 5-7 having been added by way of the present amendment. Claims 5-7 correspond with Claims 1, 3 and 4, although have been drafted to avoid being construed as means-plus-function claims. Thus no new matter is added.

In the outstanding Office Action, Claims 1-4 were provisionally rejected under the doctrine of obviousness-type double patenting over Claims 1-3 of copending Application No. 11/079,101 in view of Urata (Application No. 10/857,011); Claims 1 and 2 were rejected as being anticipated by Olschwang (Provisional Patent Application No. 60/452,526); and Claims 3 and 4 were rejected as being unpatentable over Olschwang in view of Kallas (U.S. Patent No. 6,778,653).

In reply, Applicants respectfully request that the provisional double patenting rejection be held in abeyance until at least one of the present application and copending Application Serial No. 11/079,101 has been indicated as having allowable claims.

Furthermore, Applicants call to the Office's attention that the provisional double patenting rejection does not appear to be based on a correct analysis of the claims in U.S. Application No. 11/079,101. In particular, the claims in Application Serial No. 11/079,101, include "a sound information monitoring means for monitoring sound information being output in response to the request, eliminating inappropriate sound information, and selecting the sound information conforming to a predefined condition". This feature is neither claimed nor taught or suggested in the claims of the present patent application. Furthermore, the

Office Action does not describe the claimed “tone information recording means”, which is included in Claim 1 of the present application, and is not alleged to be in the claims in U.S. Serial No. 11/079,101 or Urata.

Furthermore, amended Claim 1 includes a “past-record information storing means”, and because this feature and the tone information recording means is absent from application serial no. 11/079,101, it is believed that a double patenting rejection is improper.

Regarding the rejection of Claim 1, Claim 1 has been amended to define a tone information providing system that includes receiving means and a tone information selecting means for selecting tone information that corresponds to the called-terminal specifying information out of tone information stored in tone information storing means in which called-terminal specifying information and tone information are related to each other and stored. The system includes tone information recording means for relating the calling-terminal specifying information, the called-terminal specifying information and the tone information with each other. The tone information is transmitted by the transmitting means. The system further includes means for receiving a disclosure request being transmitted from the information communication terminal and including at least the calling-terminal specifying information. A past-record selecting means selects information corresponding to the calling terminal specifying information and stored in the past-record storing means in accordance with the received disclosure request. A past-record transmitting means transmits the selected information to the information communication terminal.

An advantage of the present invention is that it solves the problem of the prior art that the system allows for a called party to set the ring back tone of a calling party. Furthermore, because the calling-terminal specifying information and called-terminal specifying information are related and stored in a past-record information storing means it is possible to

hold the information, for example, showing which tone information was used when having called which calling destination (specification page 3, lines 9-25).

Amended Claim 1 specifically requires a past-record selecting means for selecting information corresponding to the calling-terminal specifying information and being stored in the past-record storing means in accordance with the received disclosure request. The outstanding Office Action asserts that Olschwang teaches this feature (citing page 32, section 4.2.6, lines 20-23 and page 36, section 6.1.2, lines 8-15). However, this language does not describe the claimed past-record selecting means. The outstanding Office Action broadly asserts that “the VoiC system database has the following ... and past-record selecting means ...”. However, this statement does not appear to be supported by Olschwang.

Because the past-record selecting means is included in amended Claim 1, and Olschwang does not include this feature, it is respectfully submitted that amended Claim 1 patentably defines over Olschwang.

With regard to Claims 3 and 4, each of these claims stand rejected over Olschwang in view of Kallas. However, Kallas is not asserted for the proposition of including past-record selecting means and does not teach this feature. Therefore, no matter how Olschwang is combined with Kallas, the combination does not teach or suggest all of the features of amended Claim 1, and therefore cannot render obvious Claims 3 and 4. Although Claims 5-7 are newly added claims, these claims correspond with Claims 1 and 3-4, although drafted to avoid a construction as means-plus-function claims. Therefore, it is believed that Claims 5-7 also patentably define over Olschwang in view of Kallas.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1, and 3-7, as amended, is patentably distinct and patentably distinguishing over the prior art. The present

application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
\_\_\_\_\_  
Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)